

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Respondent/Plaintiff,

vs.

ABDUL HOWARD,

Petitioner/Defendant.

Case No.: 2:13-cr-00186-GMN-VCF-1

ORDER

Pending before the Court is Petitioner Abdul Howard's ("Petitioner's") Motion for Writ of Mandamus, (ECF No. 396), which the Court construed as a Motion for Reconsideration. (Min. Order, ECF No. 397). The Government did not file a response, instead filing a Motion to Dismiss, (ECF No. 398), to which Petitioner did not respond. Petitioner's Motion for Reconsideration is unclear, as he primarily alludes to the fact that a witness in his case relocated. (Mot. Reconsideration at 3, ECF No. 396). Liberally construing Petitioner's argument, it appears that he is raising an argument already rejected by the Court in a prior Order, (ECF No. 395), namely that he is entitled to an evidentiary hearing to address the merits of his previously denied Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. Thus, Petitioner's concern seems to be that this witness, by relocating, will be unable to appear at any scheduled hearing. However, as the Court noted in its previous Order, a challenge to a district court's decision not to hold an evidentiary hearing on a 28 U.S.C. § 2255 motion is in actuality a successive 28 U.S.C. § 2255 motion, which cannot be filed without proper judicial authorization. (Order 4:3–25). As petitioner does not have said authorization, and his Motion for Reconsideration is devoid of any other argument, his Motion for Reconsideration is DENIED.

